



FR-4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36262]

Lake State Railway Company—Lease Exemption with Interchange Commitment—Line of CSX Transportation, Inc.

Lake State Railway Company (LSRC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease a line of railroad owned by CSXT Transportation, Inc. (CSXT), located in the State of Michigan (the Line). The Line, which LSRC refers to as the Plymouth Line, extends from milepost CC 25.98 at Mount Morris, Mich., to approximately milepost CC 78.9 at Middle River (Plymouth), Mich., a distance of approximately 52.92 miles.

In the verified notice, LSRC states that LSRC and CSXT will execute a Land and Rail Improvements Lease Agreement and a related Amended and Restated Freight Operating Agreement providing for LSRC's lease and operation of the Line. According to LSRC, CSXT will retain overhead trackage rights on the portion of the Line extending between McGrew Yard at or near milepost CC 29 and the connection with Grand Trunk Western Railroad Company (GTW) at or near milepost CC 33.<sup>1</sup> Additionally, LSRC states that it will provide haulage service for CSXT between Flint and Plymouth, and that CSXT will separately retain contingent overhead trackage rights on the Line between Flint and Middle River that can be exercised by CSXT in the future, upon the occurrence of certain events, in lieu of LSRC haulage service.

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<sup>1</sup> According to LSRC, CSXT will utilize its overhead trackage rights in connection with its existing trackage rights over GTW's rail line between Flint, Mich., and Port Huron, Mich. See CSX Transp.—Trackage Rights Exemption—Grand Trunk W. R.R., FD 31386 (ICC served Mar. 31, 1989).

LSRC certifies that its projected revenues resulting from this transaction will not result in the creation of a Class I or Class II rail carrier but it states that its annual revenues exceed \$5 million. Accordingly, LSRC is required by Board regulations to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so, at least 60 days before the exemption is to become effective. 49 CFR 1150.42(e). LSRC filed its certification on January 28, 2019.<sup>2</sup>

LSRC has disclosed in its verified notice that its lease agreement with CSXT contains an interchange commitment that assesses LSRC an additional per carload rental fee for traffic that originates or terminates on the Line and is not interchanged with CSXT.<sup>3</sup> LSRC has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

The transaction may be consummated on or after March 29, 2019.<sup>4</sup>

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the

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<sup>2</sup> LSRC states that it electronically submitted its certification to the Board on January 11, 2019. However, because of the partial shutdown of the Federal government, the certification is considered filed on January 28, 2019. See Filings Submitted or Due to Be Submitted During the Partial Fed. Gov't Shutdown, EP 751 (STB served Jan. 28, 2019).

<sup>3</sup> LSRC filed under seal copies of the parties' agreements with its verified notice of exemption. See 49 CFR 1150.43(h)(1).

<sup>4</sup> Although 49 CFR 1150.42(b) provides that the exemption will be effective 30 days after the verified notice is filed, the transaction may not be consummated until 60 days after LSRC certified its compliance with 49 CFR 1150.42(e).

effectiveness of the exemption. Petitions to stay must be filed no later than March 22, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36262, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on LSRC's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to LSRC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 5, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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